



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0133; FRL-9934-72-Region 4]

Approval and Promulgation of Implementation Plans; Florida;

Combs Oil Company Variance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the State Implementation Plan (SIP) submitted by the State of Florida through the Department of Environmental Protection (DEP) on July 31, 2009. The revision grants a variance to the Combs Oil Company, located in Naples, Florida. This source specific revision relieves the Combs Oil Company of the requirement to comply with the Florida rule governing installation and operation of vapor collection and control systems on loading racks at bulk gasoline plants. EPA is approving Florida's July 31, 2009, source specific SIP revision.

DATES: This rule will be effective [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0133. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman can be reached by phone at (404) 562-9043 or via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Florida Rule 62-296.418 requires bulk gasoline plants which began operation on or after August 1, 2007, to install and operate vapor collection and control systems on their loading

racks. The rule became effective on May 9, 2007, and was submitted to EPA as a proposed SIP revision on May 31, 2007. EPA approved the SIP revision on June 1, 2009 (74 FR 26103).

On May 30, 2007, Combs Oil Company submitted a petition for variance from the requirements of Rule 62-296.418(2)(b)2, Florida Administrative Code (F.A.C.), for its new bulk gasoline plant. The company operates an existing bulk gasoline plant in Naples, Florida. The new plant would replace the existing plant and be constructed at a different site in the area.

Under Section 120.542 of the Florida Statutes, the DEP may grant a variance when the person subject to a rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means, or when application of a rule would create a substantial hardship or violate principles of fairness. The DEP determined that Combs Oil Company had demonstrated that principles of fairness would be violated because the facility would have begun operations prior to August 1, 2007, but for delays in building and relocating to the new facility related to hurricanes, which were beyond the control of the company. Therefore, the DEP issued an Order Granting Variance to Combs Oil Company on August 20, 2008, relieving the company from the requirements of Rule 62-296.418(2)(b)2., F.A.C., for its proposed new facility.

In a notice of proposed rulemaking (NPR) published on July 20, 2015, EPA proposed to approve Florida's July 31, 2009, SIP revision granting a variance to the Combs Oil Company, located in Naples, Florida. *See* 80 FR 42763. The details of Florida's submittal and the rationale for EPA's actions are explained in the NPR. Comments on the proposed rulemaking were due on or before August 19, 2015. No adverse comments were received.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing incorporate by reference of “Combs Oil Company Source Specific Variance” order granting variance on August 20, 2008. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the EPA Region 4 office (see the ADDRESSES section of this preamble for more information).

III. Final Action

EPA is approving a source specific SIP revision submitted by the Florida DEP on July 31, 2009. The revision grants a variance to the Combs Oil Company, located in Naples, Florida. This source specific revision relieves the Combs Oil Company of the requirement to comply with the Florida rule governing installation and operation of vapor collection and control systems on loading racks at bulk gasoline plants. It should be noted that approval of the variance for Combs Oil Company only relieves them from the requirements of Rule 62-296.418(2)(b)2 F.A.C., for its new bulk gasoline plant, it does not relieve them from any requirements established in 40 CFR parts 60 and 63.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves a state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER

OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Nitrogen dioxide, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 16, 2015.

Heather McTeer Toney

Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart K - Florida

2. Section 52.520(d), is amended by adding a new entry for “Combs Oil Company” at the end of the table to read as follows:

§52.520 Identification of plan.

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(d) * * *

EPA-Approved Florida Source-Specific Requirements

Name of source	Permit number	State effective date	EPA approval date	Explanation
**	**	*		*
Combs Oil Company		7/31/2009	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	Order Granting Variance from Rule 62-296.418(2)(b)2

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[FR Doc. 2015-24325 Filed: 9/24/2015 08:45 am; Publication Date: 9/25/2015]